

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

JERRY HENDERSON,

Petitioner,

vs.

JAMES SALMONSON,

Respondent.

Cause No. CV 18-24-BU-BMM-JCL

ORDER

This case comes before the Court on Petitioner Jerry Henderson's application for writ of habeas corpus under 28 U.S.C. § 2254. Henderson is a state prisoner proceeding pro se.

On April 2, 2018, Henderson joined a group of prisoners in filing an "en masse" habeas petition. This Court subsequently issued an order to Petitioner directing him to advise the Court if he did wish to proceed in this habeas matter and, if so, requiring Petitioner to complete and file this Court's standard § 2254 habeas form. (Doc. 1).

Henderson timely responded and advised the Court that he wished to withdraw the pending petition so that he may preserve his rights under 28 U.S.C. § 2254. (Doc. 5). Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides Henderson with an avenue for voluntary dismissal.

Accordingly, IT IS HEREBY ORDERED:

1. Henderson's Motion to Dismiss (Doc. 5) is **GRANTED**.

This matter is **DISMISSED** without prejudice pursuant to Fed. R. Civ. P.

41(a)(1)(B). Henderson may return to this Court if and when he has exhausted his state remedies.

2. Henderson's Motion for Leave to Proceed in Forma Pauperis (Doc. 3) is **DENIED** as moot.

DATED this 25th day of April, 2018.

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge